



Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2010-0137; Notice 2]

General Motors, LLC, Grant of

Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of Petition Grant

SUMMARY: General Motors, LLC (GM),¹ has determined that certain 2008 through 2010 Model Year Chevrolet Malibu passenger cars equipped with automatic transmissions and manufactured May 2007 through March 2010 do not fully meet the requirements of paragraph S3.1.4.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect*. GM filed an appropriate report pursuant to 49 CFR Part 573 *Defect and Noncompliance Responsibility and Reports*, dated March 30, 2010.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), GM has petitioned for an exemption from the notification and remedy requirements of 49

¹General Motors, LLC (GM) is a Michigan corporation that manufactures motor vehicles.

U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of GM's petition was published, with a 30-day public comment period, on October 21, 2010, in the Federal Register (75 FR 65054). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System Web site at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2010-00137."

CONTACT INFORMATION: For further information on this decision, contact Mr. Vincent J. Williams, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-2319, facsimile (202) 366-7002.

SUMMARY OF GM'S PETITION: A total of 462,227 model year 2008, 2009 and 2010 Chevrolet Malibu passenger cars manufactured during the period May 2007 through March 2010 are potentially affected by the subject noncompliance.

GM described the noncompliance as the absence of the required transmission shift position display for a certain ignition key cylinder position. GM explained that while the key is in the ignition there is a narrow ignition key cylinder position between the "ACC" and "OFF" positions within which the transmission shift lever can be moved and the indicator light that illuminates the transmission shift position display is

inoperative. The Company added that this noncompliance only occurs when the engine is not running.

GM additionally stated that in all other ignition activation and operation positions, all of the subject vehicles comply with paragraph S3.1.4.1 of FMVSS No. 102.

GM argued its belief that the subject noncompliance is inconsequential to motor vehicle safety because:

As NHTSA recognized in proposing the standard (53 FR 32409-32411 (August 25, 1988)), the purpose of the display requirement for PRNDM information is to "provide the driver with transmission position information for the vehicle conditions where such information can reduce the likelihood of shifting errors." Thus, in all but the rarest circumstances, the primary function of the PRNDM display is to inform the driver of gear selection and relative position of the gears while the engine is running. All of the subject vehicles display PRNDM information whenever the ignition switch is in the "On" or "Run" position.

With the exception of the absence of the required transmission shift position display for one narrow ignition key cylinder position, the system meets all other applicable requirements of FMVSS No. 102.

GM has no record of any incidents, injuries, owner complaints or field reports related to this noncompliance. GM added that if a customer reports this problem to them and requests a remedy, the Company will replace the ignition switch with a conforming component.

Since this noncompliance only occurs during an atypical operation, the noncompliance is not likely to occur under normal driving conditions. The only circumstance where the noncompliance would appear is if the ignition

switch is in the intermediary position between the "OFF" and "ACC" detent positions prior to the interlock. In order for this condition to be present, a driver would have to first move the transmission control to "PARK." In such a case, there are two possible scenarios for the driver: 1) leaving the vehicle with the key in the ignition or 2) remaining in the vehicle. GM provides the following analysis for both scenarios:

1. The driver exits the vehicle while leaving the key in the ignition:

If the driver attempted to remove the key before exiting the vehicle, the key would not be capable of removal. The doors may also still be locked if they are in the factory default setting to unlock in the "PARK" position.

As required by S5.1.3 of FMVSS No. 114, GM provides an audible warning to the driver that activates whenever the key has been left in the ignition locking system and the driver's door is opened.

The Owner's Manual supplied with the vehicle provides specific warnings and instructions on ensuring the vehicle is in "PARK" and the key is removed before exiting the vehicle.

2. The driver remains in the vehicle:

If the driver remains in the vehicle, he or she would likely either restart the vehicle's engine or attempt to remove the key to exit the vehicle.

If the driver attempts to restart the engine, paragraph S3.1.3 of FMVSS No. 102 requires that the starter be inoperative whenever the vehicle's transmission shift position is in a forward or reverse drive position. The driver rotating the ignition switch forward attempting to start the engine will definitely activate the PRNDM display. Therefore, the PRNDM information will be available to the driver who

can see that the vehicle did not start because the transmission was not in "Park" or "Neutral".

GM says that because both of these situations are addressed by FMVSS requirements, a lack of a transmission shift position display in either of these cases may constitute a minor inconvenience, but will have no consequence to safety. In addition, GM stated that NHTSA has previously granted similar petitions on 3 occasions.

Furthermore, GM also stated the following:

GM recognizes that there may be isolated non-driving situations in which a person may desire to know gear selection or the relative position of the gears with the engine off, such as when placing the vehicle in tow. However, these cases occur infrequently and do not occur during normal ignition activation and vehicle operation. If the subject condition [noncompliance] is present during these infrequent non-driving situations when PRNDM information may be desired, gear selection and relative positioning can easily be determined by rotating the ignition switch slightly clockwise past the accessory "ACC" detent to activate the shift indicator display without starting the vehicle's engine. Given the nature of these non-driving situations and since the information can be readily obtained with a slight key rotation, GM believes that the subject condition [noncompliance] will have no real or implied degradation of motor vehicle safety.

GM also indicated that it has corrected the problem that caused the subject noncompliance so that it cannot reoccur in future production.

In view of the above, GM believes that the described noncompliance is inconsequential and does not present a risk to motor vehicle safety. Thus, GM requests that its petition, to

exempt it from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120, should be granted.

NHTSA DECISION: NHTSA agrees with GM that the noncompliance is inconsequential to motor vehicle safety. As the agency noted in the past (53 FR 32409, August 25, 1988), the purpose of the PRNDL information display requirement is to "provide the driver with transmission position information for the vehicle conditions where such information can reduce the likelihood of shifting errors." In all but the rarest circumstances, the primary function of the transmission display is to inform the driver of gear selection and relative position of the gears while the engine is running. In this case, the selected gear position and PRNDL display are always visible when the engine is running. Therefore, as GM stated, the vehicles will be in compliance with FMVSS No. 102 during normal ignition activation and vehicle operation.

NHTSA notes that the statutory provisions (49 U.S.C. 30118 (d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the

462,227² vehicles that GM no longer controlled at the time that it determined that a noncompliance existed in the subject vehicles.

In consideration of the foregoing, NHTSA has decided that GM has met its burden of persuasion that the subject FMVSS No. 102 noncompliance is inconsequential to motor vehicle safety. Accordingly, GM's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the subject noncompliance under 49 U.S.C. 30118 and 30120.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at CFR 1.50 and 501.8)

Issued on: November 18, 2011

Claude H. Harris, Director
Office of Vehicle Safety Compliance

Billing Code: 4910-59-P

[FR Doc. 2011-30563 Filed 11/25/2011 at 8:45 am; Publication Date: 11/28/2011]

² GM's petition, which was filed under 49 CFR Part 556, requests an agency decision to exempt GM from the notification and recall responsibilities of 49 CFR Part 573 for as many as 462,227 of the affected vehicles. However, the granting of this petition does not relieve GM's distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after GM recognized that the subject noncompliance existed.